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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/727,248	11/29/2000	Christopher A. Lee	ODS-20	4353
1473	7590	11/13/2006	EXAMINER	
FISH & NEAVE IP GROUP ROPES & GRAY LLP 1251 AVENUE OF THE AMERICAS FL C3 NEW YORK, NY 10020-1105			HARPER, TRAMAR YONG	
		ART UNIT	PAPER NUMBER	
		3714		

DATE MAILED: 11/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

N/1

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/727,248	LEE, CHRISTOPHER A.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Tramar Harper	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 05 July 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-46 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-46 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

### ***Response to Amendment***

Examiner acknowledges receipt of amendment on 07/05/06. The arguments set forth in the response are addressed herein below. Claims 1-46 remain pending & Claims 1, 11, 24, & 35 have been amended.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stronach (WO 00/67215) in view of Tulley et al (US 6,688,976). Stronach discloses that upon actuation of the quick pick button the wagering terminal automatically selects racing candidates based on various algorithms (Pg. 10:21-29). Each time the quick pick button is actuated the wagering terminal is select a different set or arrangement of racing candidates based on different algorithms within the processor program. The player can continue to press the button until if the candidates selected are unacceptable (Pg. 15:10-15). This is interpreted as a random means of automatically selecting candidates. Random number generators are well known in the art as a means of automatically selecting a random outcome or event. Such generators randomly select numbers based on some type of algorithm. Stronach discloses the use of a network and the Internet and that communication may be wired or wireless. Stronach discloses

various types of racing information that can be displayed to the player and that the communications network may be wired or wireless systems using a telecommunications or cable network, which means phone or cable (Pg. 6-7). Stronach further discloses a betting card and an account manager in detail viewing race events at more than one track and future race events (Pgs. 8-15). A detailed reading of Stronach by an artisan of ordinary skill would teach all of the claimed invention, except explicitly a random number generator means for automatically selecting candidates or racers located remotely from the wagering terminal or at a host location. Tulley et al. discloses a lottery system that comprises of a controller (host system) networked to remote terminals or player devices (Col. 11:20-30 & 52-60). If requested from the player via the player device, the controller implements a "quick pick" application that randomly generates lottery numbers for the player (Col. 5:1-9; Col. 16:57-67). If the initial randomly selected numbers are deemed unacceptable (the combination repeats elsewhere) the controller can regenerate a new selection set (). Tulley discloses that such a system can be used for pari-mutuel horse racetrack betting where the player has to select in order the top three horses that will win a race (Col. 21:42-53). Tulley discloses that additionally the player can request that his/her selections be associated with a limited number of occurrences e.g. the randomly generated combination only occurs a certain amount of times. It would have been obvious to one of ordinary skill at the time of the invention to modify the wagering system of Stronach with the random "quick pick" random generated application at the host system of Tulley et al. Such a modification would provide an alternative random means of automatically selecting

candidates for the player in the event that the player is indecisive about what selections to make.

***Response to Arguments***

Applicant's arguments with respect to Claims 1-46 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

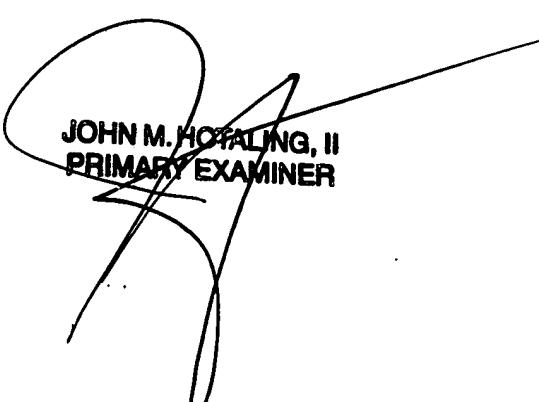
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tramar Harper whose telephone number is (571) 272-6177. The examiner can normally be reached on 7:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TH

11/3/06



JOHN M. HOTALING, II  
PRIMARY EXAMINER